

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

House of Representatives, 21 September 1979.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 24 October 1979.

Words struck out are shown in italics within double bold round brackets; words inserted are shown in roman underlined with a triple rule.

Hon. Mr McLay

UNIT TITLES AMENDMENT

ANALYSIS

Title	
1. Short Title	
PART I	
STAGED DEVELOPMENT	
2. Interpretation	12. Subdivision effected when plan deposited
3. Subdivision of land into units in stages	13. Restrictions on deposit of plan
4. How subdivision in stages effected	14. Further provisions relating to principal officer's certificate
5. Proposed development plans	15. Issue of certificate of title in respect of unit
6. Deposit of unit plans under this Part	16. Duties of body corporate
7. Unit entitlement	17. Dealings affecting the common property
8. Future development units	18. Registration of transfers of common property
9. Application of principal Act	19. Additions to common property
PART II	
MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT	
10. Interpretation	20. Interest on money owing to body corporate
11. Subdivision of land into units	21. Provisions relating to insurance
	22. Redevelopment
	23. Cancellation of plan on application of proprietors
	24. Application and interpretation of Part IV
	25. Notice of resolution or order
	26. Rules
	27. New Fourth Schedule Schedules

A BILL INTITULED

An Act to amend the Unit Titles Act 1972

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5 as follows:

No. 19—3

1. Short Title—This Act may be cited as the Unit Titles Amendment Act 1979, and shall be read together with and deemed part of the Unit Titles Act 1972* (hereinafter referred to as the principal Act).

PART I

5

STAGED DEVELOPMENT

2. Interpretation—In this Part of this Act, unless the context otherwise requires,—

“Complete unit plan”, in relation to a subdivision of land into units in stages, means a plan specifying all the units and the whole of the common property comprising the development in relation to a building or buildings already erected on the land: 10

“Future development unit”, in relation to a subdivision of land into units in stages, means a unit that is proposed to be developed or subdivided into 1 or more units (with or without common property) at a later stage of the development, and that is shown on a stage unit plan as a future development unit: 15

“Proposed unit development plan”, in relation to a subdivision of land into units in stages, means a plan specifying all the units and the whole of the common property proposed to comprise the development when it is completed: 20

“Stage unit plan”, in relation to a subdivision of land into units in stages, means a plan specifying *(those units that have, and that part of the common property that has, been completed)* each unit and each part of the common property (if any) that has so far been completed (to the extent necessary for the purposes of section 5 (1) (g) of the principal Act) at the date of the deposit of the plan, the balance being specified as one or more future development units. 25 30

3. Subdivision of land into units in stages—(1) Notwithstanding anything in Part I of the principal Act, every person who is entitled, by virtue of section 3 (1) of the principal Act, to subdivide a parcel of land in accordance with the 35

*1972, No. 15
Amendment: 1973, No. 101

provisions of that Act may, in accordance with the succeeding provisions of this Part of this Act, effect that subdivision in 2 or more stages.

New

5 (2) Notwithstanding anything in subsection (1) of section
3 of the principal Act, one such stage of a subdivision may
make provision for only one principal unit; and it shall be
sufficient compliance with that subsection if the relevant
stage unit plan specifies one principal unit and one or more
10 future development units, with or without any accessory units
or common property.

4. How subdivision in stages effected—The subdivision of
land so as to provide for units in 2 or more stages shall be
effected by the successive deposit under the Land Transfer
15 Act 1952 of—

- (a) A proposed unit development plan, which shall specify
all the units, and the whole of the common property,
proposed to comprise the development when it is
completed:
- 20 (b) One or more stage unit plans, which shall specify
*(those units that have, and that part of the common
property that has, so far been completed)* each unit
and each part of the common property (if any)
that has so far been completed (to the extent
25 necessary for the purposes of section 5 (1) (g)
of the principal Act) in relation to a building or
buildings comprising part of the development and
already erected on the land, and also specify the
area or areas (each such area being designated on
30 the plan as a future development unit) in which
further development or subdivision and other work
is still required to complete the development:
- (c) A complete unit plan, which shall specify all the units
and the whole of the common property comprising
35 the development in relation to a building or build-
ings already erected on the land.

5. Proposed development plans—(1) Every proposed unit
development plan shall comply with the provisions of all
regulations as to survey made under the Surveyors Act
40 1966.

(2) The deposit of a proposed unit development plan shall not affect the estate or interest in the land owned by the registered proprietor depositing the plan or by any other person.

(3) A proposed unit development plan may not be deposited unless— 5

(a) It is accompanied by a stage unit plan relating to the same development:

(b) It has been approved by the Chief Surveyor appointed for the land district constituted under the Land Act 1948 in which the relevant land is situated: 10

(c) A certificate in the form set out in the First Schedule to this Act has been given in writing by the principal officer of the territorial authority in whose district the land is situated to the effect that the proposed development as shown on the plan complies in all respects, so far as such compliance can be ascertained from the plan, with the relevant requirements of the territorial authority's bylaws and of the Town and Country Planning Act 1977. 15 20

(4) The provisions of section 5 (2) of the principal Act shall apply in respect of the Chief Surveyor's approval of a proposed unit development plan as if the plan were a unit plan; and the provisions of section 5A (3) of that Act shall apply in respect of the principal officer's certificate as if it were a certificate given in respect of a unit plan. 25

New

(5) When a proposed unit development plan has been deposited, the proposed development shall not be altered in any way, unless a new proposed unit development plan has been deposited, incorporating the proposed changes, in accordance with the following provisions: 30

(a) Subject to paragraph (b) of this subsection, the consent of every proprietor of a unit (including a future development unit) shown on the latest stage unit plan deposited in respect of the development, and of every other person who has a registered interest in any such unit, and of every caveator claiming any interest in any such unit, shall be required to the deposit of a substituted proposed unit development plan: 35 40

New

- 5 (b) Where the unanimous consent of the persons referred to in paragraph (a) of this subsection is not forthcoming but a majority of those persons are in favour of the deposit of a substituted proposed unit development plan, that plan may be deposited with the consent of the Court; and for the purposes of this paragraph section 58 of the principal Act shall apply with the necessary modifications:
- 10 (c) The provisions of subsections (1) to (4) of this section, except paragraph (a) of subsection (3), shall apply in respect of a substituted proposed unit development plan:
- 15 (d) The substituted proposed unit development plan shall be deposited under the same number as the original proposed unit development plan.

6. Deposit of unit plans under this Part—(1) No stage unit plan and no complete unit plan shall be deposited pursuant to this Part of this Act unless *(a certificate has been given in writing)* the certificate given under section 5 (1) (g) of the principal Act includes a statement by the principal officer of the territorial authority in whose district the land is situated that the plan is *(in accordance)* consistent with the relevant proposed unit development plan.
- 25 (2) Every successive stage unit plan (except the first) and the complete unit plan relating to a development shall be deposited in substitution for, and under the same number as, the stage unit plan previously deposited in respect of that development.

30 *Struck Out*

(3) The requirements of subsection (1) of this section are in addition to the requirements of section 5 (1) (g) of the principal Act.

New

- 35 (3) For the purposes of paragraphs (c) and (d) of section 5A (1) of the principal Act it shall be sufficient if every building and every other part of the whole development shown on a stage unit plan complies with the local authority's bylaws and the requirements of the Town and Country Planning Act

1977 as those bylaws and requirements applied at the time when the proposed unit development plan was deposited, notwithstanding that, because of subsequent changes to any such bylaws or requirements, any such building or other part of the development no longer complies with all such bylaws and requirements. 5

7. Unit entitlement—(1) For the purpose of eventually determining the matters specified in section 6 (3) of the principal Act, before the proposed unit development plan is deposited there shall be assigned to every principal unit and every accessory unit shown on the plan a unit entitlement, to be fixed by the Valuer-General or a registered valuer within the meaning of the Valuers Act 1948 (subject to payment to the Valuer-General or the valuer, as the case may be, of such fee as he may fix) on the basis of the relative prospective value of the unit in relation to each of the other proposed units on the proposed unit development plan. 10 15

(2) On each stage unit plan, and on the complete unit plan, the unit entitlement to be assigned to each principal unit and each accessory unit for the purposes of section 6 of the principal Act shall be that shown on the proposed unit development plan in respect of that unit. 20

(3) No unit entitlement shall be assigned to any future development unit.

8. Future development units—(1) The deposit of a stage unit plan shall have the effect of creating in each future development unit a stratum estate in freehold or a stratum estate in leasehold, as the case may be, which shall comprise— 25

(a) The fee simple estate or, as the case may be, the estate as lessee or licensee in the unit, which shall determine either— 30

(i) On the deposit of a unit plan that specifies as other than a future development unit that part of the land that formerly comprised the future development unit; or 35

(ii) On the cancellation of a stage unit plan, in accordance with sections 45 to 47 of the principal Act, on which the unit is shown as a future development unit: 40

(b) The undivided share in the fee simple estate as lessee or licensee in all the units to which the proprietor of the unit is contingently entitled by virtue of section 9 (5) (c) (i) of this Act.

5 (2) Subsections (3) to (6) of section 4 of the principal Act, with any necessary modifications, shall apply to and in respect of a stratum estate in a future development unit as if the unit were a principal unit.

(3) On the deposit of a stage unit plan, the Registrar
10 may, at the request of the registered proprietor, issue a separate certificate of title for any future development unit.

(4) Subsections (3) and (4) of section 8 of the principal Act shall apply to every certificate of title issued under this section.

15 **9. Application of principal Act—**(1) Notwithstanding anything in section 12 of the principal Act, but subject to the succeeding provisions of this section, the registered proprietor for the time being of a stratum estate in a future development unit shall not, by virtue only of the fact that he is the
20 registered proprietor of that estate, be a member of the relevant body corporate constituted by that section.

(2) Notwithstanding anything in section 15 of the principal Act, the body corporate shall have no duties in respect of any future development unit comprising part of the
25 development; nor shall the registered proprietor of the stratum estate in any such unit be required to contribute to any fund established by the body corporate pursuant to that section.

New

30 (2A) Notwithstanding anything in subsection (2) of this section or in the principal Act, the body corporate may enter into any agreement with the registered proprietor of a future development unit for the undertaking of any work or the expenditure of any money for the mutual benefit of the body
35 corporate and that registered proprietor.

(3) Notwithstanding anything in section 18 or section 19 or section 44 of the principal Act, no part of the common property may be dealt with, and no land may be added to the common property, and no unit or part of the common
40 property may be redeveloped, without the consent of every registered proprietor of a future development unit included in the development.

(4) In the case of a development to which Part II of the principal Act applies, every registered proprietor of a future development unit shall be deemed to be a member of the body corporate for the purposes of the provisions of that Part, and those provisions shall apply as if— 5

- (a) The unit were a principal unit; and
- (b) The unit entitlement of the unit were equivalent to the aggregate unit entitlement of all the units into which it is proposed eventually to subdivide the future development unit, as shown on the proposed development plan. 10

(5) For the purposes of sections 45 (1), 46 (1), and 47 (1) of the principal Act, every registered proprietor of a stratum estate in a future development unit comprising part of a development shall be deemed to be the registered proprietor of a principal unit comprising part of the development; but, in respect of the cancellation of a stage unit plan the following provisions shall apply: 15

- (a) Before the plan is cancelled, the whole development (excluding every future development unit), and each future development unit, shall be separately valued by the Valuer-General or a registered valuer within the meaning of the Valuers Act 1948 (at the expense of the body corporate or, as the case may be, the registered proprietor of the future development unit): 20 25

- (b) In the event of a dispute arising in respect of any valuation made for the purpose of paragraph (a) of this subsection, the matter shall be determined by arbitration under the Arbitration Act 1908, and the provisions of that Act shall apply accordingly: 30

- (c) Upon cancellation of the plan, the fee simple estate, or (as the case may be) the estate as lessee or licensee in the whole of the land that was comprised in the development (including every future development unit) shall vest— 35

- (i) As to one undivided share in each person who was the proprietor of a future development unit immediately before the cancellation of the plan; and 40

- (ii) As to one undivided share in the persons who were the proprietors of the units (other than future development units) immediately before the cancellation of the plan,—

such shares to be in the proportion that the value of the future development unit (as determined pursuant to paragraph (a) of this subsection) bears to the value of the balance of the development (as so determined):

- 5 (d) As between themselves, the persons who are entitled to one undivided share in the land by virtue of para-
 graph (c) (ii) of this subsection shall be so entitled
 10 in the same shares as, by virtue of section 9 of the principal Act, they were interested in the common property immediately before the cancellation of the plan.

Struck Out

- 15 (6) Subject to the additions, exclusions, and modifications set out in this Part of this Act, the provisions of the principal Act shall apply in respect of subdivisions of land into units under this Part of this Act in the same manner as they apply to subdivisions of land into units under that Act.

New

- 20 (6) Subject to the additions, exclusions, and modifications set out in this Part of this Act, the provisions of the principal Act shall apply in respect of—
- (a) Subdivisions of land into units under this Part of this Act in the same manner as they apply to subdivisions of land into units under that Act; and
- 25 (b) Stage unit plans and complete unit plans deposited or to be deposited under this Part of this Act in the same manner as they apply to unit plans deposited or to be deposited under the principal Act.
- 30

PART II

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

- 35 **10. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “principal unit”, after the words “place of residence or business”, the words “or otherwise”.

(2) The said section 2 is hereby further amended by omitting the definition of the term “unit”, and substituting the following definition:

“Unit’, in relation to any land, means a part of the land consisting of a space of any shape situated below, on, or above the surface of the land, or partly in one such situation and partly in another or others, all the dimensions of which are limited, and that is designed for separate ownership:” 5

11. Subdivision of land into units—Section 3 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraphs: 10

- “(a) Two or more principal units; and 10
- “(aa) Such number of accessory units (if any) as the registered proprietor may wish; and”.

12. Subdivision effected when plan deposited—(1) Section 4 of the principal Act is hereby amended—

- (a) By omitting from subsection (3) the words “settled, or otherwise dealt with”, and substituting the words “or settled”: 15
- (b) By omitting from that subsection the words “settlement, or other dealing”, and substituting the words “or settlement”: 20
- (c) By omitting from subsection (5) the words “or otherwise dealt with”, and substituting the words “settled, or otherwise dealt with pursuant to subsection (3A) of this section”. 25

(2) The said section 4 is hereby further amended by inserting, after subsection (3), the following subsection: 25

“(3A) Notwithstanding anything in subsection (3) of this section, any proprietor of a unit may grant an easement over the unit, but only with the consent of every proprietor and every mortgagee of all the other units comprising the development.” 30

13. Restrictions on deposit of plan—(1) Section 5 (1) of the principal Act is hereby amended by repealing paragraph (g) (as substituted by section 2 (1) of the Unit Titles Amendment Act 1973), and substituting the following paragraph: 35

- “(g) Unless a certificate in the form set out in the Fourth Schedule to this Act has been given in writing by the principal officer of the territorial authority in whose district the land is situated to the effect that every building shown on the plan has been 40

erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically (defined) measured:".

(2) Section 5 (2) of the principal Act is hereby amended by omitting from paragraph (b) the words "any flat or office", and substituting the words "all the units and common property".

14. Further provisions relating to principal officer's certificate—(1) The principal Act is hereby amended by inserting, after section 5, the following section:

"5A. (1) The principal officer of the territorial authority shall not refuse to give a certificate in respect of any unit plan under section 5 (1) (g) of this Act except on one or more of the following grounds:

"(a) That any building shown on the plan has not been erected, or that any other development work has not been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically ((defined)) measured:

"(b) That any building has been erected, or that any other development work requiring a permit from the territorial authority has been carried out, on the land without the authority of all necessary permits from the territorial authority.

"(c) That any building on the land has been erected in such a place in relation to any boundary, or to such a height, as to contravene the territorial authority's bylaws or any of the requirements of the Town and Country Planning Act 1977:

"(d) That any building or any other part of the whole development contravenes any such bylaws or requirements in any other manner to such an extent that alterations are required that may affect the (situation) location or the boundaries of any unit or of any part of the common property shown on the plan.

"(2) When the principal officer of the territorial authority has given a certificate in respect of any unit plan under section 5 (1) (g) of this Act, and that plan has been deposited

under this Act, the territorial authority, (*notwithstanding that the issue of the certificate may have been procured by fraud or mistake, and*) notwithstanding any enactment or rule of law to the contrary, shall have no power to require any alteration to any building or any other part of the whole development that may affect the (*situation*) location or the boundaries of any unit or of any part of the common property shown on the plan, but may otherwise pursue any remedies it may have (including the prosecution of any person) in respect of any non-compliance with its bylaws or the requirements of the Town and Country Planning Act 1977. 5 10

“(3) The territorial authority, the principal officer of the territorial authority, every member of the territorial authority, and every employee or agent of the territorial authority, shall not be under any civil or criminal liability in respect of the giving of a certificate under section 5 (1) (g) of this Act, unless it or he has acted (*negligently or*) in bad faith.” 15

(2) The following enactments are hereby consequentially repealed: 20

(a) Subsections (2A), (2B), and (2C) of section 5 of the principal Act:

(b) The Unit Titles Amendment Act 1973.

15. Issue of certificate of title in respect of unit—(1) Section 8 (1) (a) of the principal Act is hereby amended by inserting, after the words “registered proprietor”, the words “(and not the body corporate)”. 25

(2) Section 8 (1) (b) of the principal Act is hereby repealed.

(3) Section 8 (3) of the principal Act is hereby amended by adding the words “, and, on issuing any such certificate under this section, the Registrar shall comply with the requirements of section 67 of that Act accordingly”. 30

16. Duties of body corporate—Section 15 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph: 35

“(b) Insure and keep insured all buildings and other improvements on the land to the replacement value thereof (including demolition costs and architect’s fees) against fire, flood, explosion, wind, storm, hail, snow, aircraft and other aerial devices 40

dropped therefrom, impact, riot and civil commotion, malicious damage caused by burglars, and earthquake in excess of indemnity value.”.

5 17. **Dealings affecting the common property**—(1) Section 17 (1) of the principal Act is hereby amended—

(a) By omitting the words “grant of easement, or other dealing”, and substituting the words “or grant of easement”:

10 (b) By omitting the words “grant, or dealing”, and substituting the words “or grant”.

(2) Section 17 of the principal Act is hereby further amended by repealing subsection (2).

15 18. **Registration of transfers of common property**—Section 18 of the principal Act is hereby amended by adding the following subsection:

“(5) The foregoing provisions of this section shall apply to every case where any common property is taken by proclamation:

20 “Provided that, if the body corporate so requests by notice in writing, the Chief Surveyor shall, at the expense of the Crown, prepare the new unit plan required by subsection (1) of this section.”

25 19. **Additions to common property**—Section 19 (5) (d) of the principal Act is hereby amended by omitting the words “the new unit”, and substituting the word “that”.

20. **Interest on money owing to body corporate**—(1) The principal Act is hereby amended by inserting, after section 34, the following section:

30 “34A. Where, under any of sections 32 to 34 of this Act, any registered proprietor owes any money to the body corporate, interest shall accrue in respect of so much of the debt as remains unpaid at such rate as the body corporate shall from time to time determine, being not more than 10 percent per annum.”

35 (2) Section 36 of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraph:

“(ea) The rate at which interest is accruing, pursuant to section 34A of this Act, in respect of any amount owing to the body corporate by the proprietor.”.

21. Provisions relating to insurance—(1) The principal Act is hereby amended by repealing section 38, and substituting the following section:

“38. (1) In this section, unless the context otherwise requires,—

“‘Insurer’ means an insurer in respect of a principal insurance policy: 5

“‘Mortgagee’ means a mortgagee who, by virtue of subsection (3) of this section, has an insurable interest in the property covered by a principal insurance policy: 10

“‘Principal insurance policy’, in relation to the units and common property shown on a unit plan, means the policy of insurance effected by the relevant body corporate in accordance with section 15 (1) (b) of this Act. 15

“(2) The succeeding provisions of this section shall apply notwithstanding any enactment or rule of law or agreement to the contrary.

“(3) Every unit proprietor, and every person entitled as mortgagee by virtue of a (*registered*) registrable mortgage in respect of any unit, has an insurable interest in the property covered by the principal insurance policy. 20

“(4) The body corporate shall inform the insurer, and keep him informed, by notice in writing of the name and address of every proprietor and every mortgagee: 25

“Provided that nothing in this subsection shall prevent any unit proprietor or mortgagee from giving such notice to the insurer.

“(5) No principal insurance policy shall lapse or be cancelled, but shall remain in full force and effect, until— 30

“(a) The insurer has served on every unit proprietor, and every mortgagee, of which he has had notice aforesaid a notice to the effect that the policy shall lapse or be cancelled on the date specified in the notice, being not earlier than 30 days after the date on which the notice is so served; and 35

“(b) The date specified in the notice has arrived.

“(6) Notwithstanding anything in paragraph (a) of subsection (5) of this section, it shall be sufficient for the purposes of that paragraph if the insurer sends the required 40

notice to a unit proprietor or mortgagee by registered post addressed to him at the last address of which notice has been given to the insurer under subsection (4) of this section.

“(7) In any case where the insurer (*alleges*) considers that
 5 default has been made under the principal insurance policy, whether in respect of the payment of premiums or otherwise, he shall specify in the notice the default complained of, and shall state that the lapsing or cancellation of the policy is
 10 conditional upon the default not being remedied before the subsection (5) (a) of this section.

“(8) Unless by unanimous resolution all the proprietors otherwise resolve, all money paid by the insurer pursuant to
 15 the principal insurance policy shall be applied in or towards reinstatement, and, where it is to be so applied, no mortgagee shall be entitled to demand that any part of any such money be applied in or towards repayment of the mortgage debt.

“(9) Nothing in this section shall limit or affect the rights of any person in or to the proceeds of the principal insurance
 20 policy pursuant to any of the provisions of sections 45 to 48 of this Act.”

(2) Section 63 (3) of the principal Act is hereby consequentially repealed.

New

25 **21A. Further provisions relating to insurance**—The principal Act is hereby amended by repealing section 39, and substituting the following section:

“39. (1) Nothing in section 15 or section 38 of this Act shall limit the right—

30 “(a) Of a proprietor to effect a policy of insurance in respect of the destruction of or damage to his unit:

“ (b) Of a mortgagee of a unit to require the proprietor, as a condition of the loan, to effect a policy of insurance (in this section referred to as a mortgage redemption policy) to indemnify the proprietor against liability to repay the whole or any
 35 part of the sum secured to the mortgagee in the event of the destruction or damage of the unit.

“(2) Any payment made under a mortgage redemption
 40 policy by the insurer shall be made to the mortgagees whose interests are noted on the policy in the order of their respective priorities.”

New

“(3) No mortgage redemption policy shall be liable to be brought into contribution with any other policy of insurance except another mortgage redemption policy effected in respect of the same mortgage debt. 5

“(4) This section shall apply notwithstanding any rule of law to the contrary.”

22. Redevelopment—(1) Section 44 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection: 10

“(1) On a redevelopment, application shall be made to the Registrar for the deposit of a plan of redevelopment, being a new unit plan in substitution for the existing unit plan. The new unit plan shall be deposited under the same number as the existing unit plan, and the provisions of section 15 20 of this Act shall apply accordingly.”

(2) Section 44 (2) of the principal Act is hereby amended by inserting, before the words “A plan of redevelopment”, the words “Subject to the provisions of this section,”.

(3) Section 44 (4) of the principal Act is hereby amended 20 by repealing paragraph (b), and substituting the following paragraph:

“(b) Every person who is entitled as mortgagee by virtue of any registered mortgage in respect of any unit affected by the redevelopment, and every caveator 25 who claims any estate or interest in any unit affected by the redevelopment (being a caveator whose caveat was lodged with the Registrar before deposit of the plan of redevelopment) has consented in writing to the redevelopment.” 30

23. Cancellation of plan on application of proprietors—

(1) Section 45 (3) of the principal Act is hereby amended by omitting the words “or part of the common property is subject to any caveat, mortgage, charge, lease, or sublease”, and substituting the words “is subject to any caveat, mort- 35 gage, charge, lease, or sublease registered against the title to the unit”.

(2) Section 45 (5) of the principal Act is hereby amended by adding the following paragraph:

“(c) Every easement over any unit comprising part of the 40 development shall be determined.”

(3) Section 45 of the principal Act is hereby further amended by adding the following subsection:

5 “(9) The Registrar shall also cancel any relevant supplementary record sheet; and, for the purposes of section 67 of the Land Transfer Act 1952 that sheet shall be deemed to be a certificate of title issued under that Act in respect of that land.”

24. Application and interpretation of Part IV—Section 56

10 (1) (b) of the principal Act is hereby amended by omitting the words “registered as proprietors of any such estate as tenants in common”, and substituting the words “the registered proprietors as tenants in common of any estate in land in respect of which any such application is contemplated”.

15 **25. Notice of resolution or order—**(1) Section 60 of the principal Act is hereby amended—

(a) By repealing paragraph (b) of subsection (1):

(b) By repealing paragraph (b) of subsection (2).

20 (2) The said section 60 is hereby further amended by repealing subsection (3), and substituting the following subsection:

25 “(3) The said notice shall state that it is the intention of the company or the owners to subdivide its or their land in accordance with this Act unless, not later than 1 month after the date on which the notice is given to the Registrar, a caveat in form 7 in the First Schedule to this Act is lodged, by any person claiming an estate or interest in the land or shares, with the Registrar under the Land Transfer Act 1952 forbidding the subdivision.”

30 **26. Rules—**(1) The Second Schedule to the principal Act is hereby amended by omitting from rule 30 the words “(who shall not be a proprietor)”, and substituting the words “(who may or may not be a proprietor)”.

(2) The said Second Schedule is hereby further amended by inserting, after rule 31, the following rule:

35 “31A. The secretary shall in each year prepare a balance sheet showing the body corporate’s financial dealings during that year, and shall, within 6 months after each annual general meeting, send a copy of the latest balance sheet to every proprietor.”

27. New Fourth Schedule—The principal Act is hereby amended by adding the Fourth Schedule set out in the Second Schedule to this Act.

New

27A. Stratum estate as trustee investment—(1) Section 4 of the Trustee Act 1956 is hereby amended by inserting, after subsection (3A) (as inserted by section 4 (2) of the Trustee Amendment Act 1974), the following subsection:

“(3AA) In this section the term “real security” also means—

“(a) A stratum estate in freehold in a unit under the Unit Titles Act 1972; and

“(b) A stratum estate in leasehold in such a unit where the lease or licence relating to the land is one to which subsection (3) or subsection (3A) of this section applies,—

if the proprietor of the unit effects in respect of the unit a mortgage redemption policy within the meaning of and in accordance with section 39 of the Unit Titles Act 1972 to repay the whole of the sum secured under the mortgage.”

(2) Section 53 of the principal Act is hereby consequentially repealed.

SCHEDULES

FIRST SCHEDULE

Section 5 (3) (c)

PRINCIPAL OFFICER'S CERTIFICATE FOR PROPOSED DEVELOPMENT PLAN PURSUANT to section 5 (3) (c) of the Unit Titles Amendment Act 1979, I,, the principal officer of the territorial authority, hereby certify that the development as shown on the proposed unit development plan number complies in all respects, so far as such compliance can be ascertained from the plan, with the relevant requirements of the territorial authority's bylaws and of the Town and Country Planning Act 1977.

..... Principal Officer.

SECOND SCHEDULE

Section 27

NEW FOURTH SCHEDULE ADDED TO PRINCIPAL ACT

Section 5 (1) (g)

"FOURTH SCHEDULE

PRINCIPAL OFFICER'S CERTIFICATE FOR UNIT PLAN

PURSUANT to section 5 (1) (g) of the Unit Titles Act 1972, I,, the principal officer of the territorial authority, hereby certify that every building shown on unit plan number has been erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically (defined) measured.

*I further certify that the said plan is consistent with proposed unit development plan number

..... Principal Officer.

*To be included only where the certificate is given in respect of a stage unit plan under Part I of the Unit Titles Amendment Act 1979.